

---

---

## MEMORANDUM

---

---

**TO:** THE MEMBERS OF THE VIRGIN ISLANDS BAR  
**FROM:** GEORGE H.T. DUDLEY, CHAIR  
**SUBJECT:** DISTRICT COURT SPECIAL COMMITTEE TO REVIEW THE  
LOCAL RULES OF CIVIL PROCEDURE (THE “RULES REVIEW  
COMMITTEE”)  
**DATE:** 03/27/2007

---

In October of last year, Chief Judge Curtis V. Gómez created a special committee of the District Court of the Virgin Islands to review and update the Court’s Local Rules of Civil Procedure (the “Rules Review Committee”). Appointed to the Rules Review Committee were Denise M. Francois, Joel H. Holt, James L. Hymes, Lee J. Rohn and myself as Committee chair. Chief Judge Gómez also appointed as the committee’s academic advisor a highly regarded Civil Procedure law professor, Stephen B. Burbank, the David Berger Professor for the Administration of Justice at the University of Pennsylvania Law School and currently a visiting professor at Harvard Law School. Additionally, to share with us their practical experience and as a sounding board for our ideas the Chief Judge has provided us liberal access to and assistance from Magistrates Geoffrey W. Bernard and George W. Cannon, the Clerk of the Court, Mr. Wilfredo Morales, and Ms. Cicely B. Francis, Generalist Supervisor of the District Court.

The Rules Review Committee intends to review the current local rules (commencing with Rule 1 and continuing, seriatim, through Rule 86.1) with a view to assessing their utility, revising where necessary, removing where appropriate (especially where the rule simply is duplicative of a Rule in the FRCP), and supplementing to the extent necessary. However, as our first priority, since late last year the Rules Review Committee has been at work crafting the proposed new local rules distributed with this memorandum for the electronic filing and case management of all civil cases, which are to be implemented commencing with the effective date of the new rules as provided in the accompanying order from Chief Judge Gómez (more about the new rules later in this memorandum).

We invite members of the Bar to provide us with any constructive comments or criticism that you may have with respect to any of the existing local rules. You also are invited to point out specific areas in your civil litigation practice where the adoption of a local rule would assist the Court in the administrative discharge of its responsibilities.

Now that the Virgin Islands Supreme Court has been established and undertaken responsibility for the appellate review of the decisions of the Superior Court, the fees charged by the District Court for cases that still lie within the court's jurisdiction are under review by the Court.

As the Rules Review Committee's work progresses we plan to share with the Bar drafts of our work in progress to which you will be invited to provide comment. It is hoped that by proceeding in this fashion the committee will be able to engage in a constructive dialogue with the Bar, culminating in the promulgation of updated local rules on which practitioners will have had an opportunity to provide substantive input and to which you will have been fully exposed prior to the new rules taking effect.

Turning then to the new rules to be adopted as a part of the implementation of Case Management/Electronic Case Files (CM/ECF) by the District Court (the "CM/ECF Rules"). Because most existing court rules and procedures have been designed with paper court documents in mind, some modifications are needed to address issues arising when court documents are filed in electronic form. This set of rules has been adapted from a set of model local rules compiled by a subcommittee of the Court Administration and Case Management Committee of the United States Supreme Court that included as members representatives from the Supreme Court's Committee on Automation and Technology (now the Committee on Information Technology) and the Committee on Rules of Practice and Procedure (the "CA/CM Subcommittee"). The CA/CM Subcommittee reviewed the rules and procedures for electronic filing developed in the CM/ECF prototype district and bankruptcy courts. It also undertook an informal survey of those courts to find out how well those procedures operated. The information indicated general satisfaction with courts' existing procedures. There was also general agreement that it was essential to include the bar in the process of developing and modifying the local procedures governing electronic filing.

The model local rules for electronic case filing were based to a significant extent on the procedures used in courts that served as prototype courts for the federal judiciary's CM/ECF Project. The model local rules were approved by the Judicial Conference in September 2001, and slightly modified in March 2002. Additional experience since then suggested that some modifications were appropriate.

There are separate sets of model local civil and criminal rules for district courts and a set of model local rules for bankruptcy courts. They use the same terminology and are identical to the extent possible and appropriate. The District Court of the Virgin Islands is free to adapt the provisions of these model local rules as the Court considers appropriate. It was in that context that the Rules Review Committee proceeded with its work.

The Federal Rules of Civil Procedure (Civil Rule 5(e)) provide that a court may "by local rule" permit filing, signing and verification of documents by electronic means. The Federal Rules also authorize each district court to make and amend rules governing

its practice (Civil Rule 83(a)). The use of local rules promotes the requirements of the federal Rules Enabling Act, provides better public notice of applicable procedures, and allows for input from the bar. Consequently, the Rules Review Committee and Chief Judge Gómez decided to implement electronic case filing by the adoption of the CM/ECF Rules, which are to be added as a group to local Rule 5.

Please Note: These rules use the term “Electronic Filing System” to refer to the Court’s system that receives documents filed in electronic form. The term “Filing User” is used to refer to those who have a court-issued log-in and password to file documents electronically. The commentary has been included to provide background and guidance to the Bar as to the Rules Review Committee’s thinking in drafting the rules. However, this commentary will not be a part of the published rules but will continue to be available in the Policies and Procedures Manual for Electronic Case Filing that will be published simultaneously with the adoption of the CM/ECF Rules, which will be available on the website of the District Court of the Virgin Islands.

GHTD